



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Q-MARKETS, INC. Registration No. 51607

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1309 and §10.1-1316, between the Air Pollution Control Board and Q-Markets, Inc., for the purpose of resolving certain alleged violations of environmental law and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Air Pollution Control Law" means Va. Code § 10.1-1300 *et seq.*
3. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality.

6. "Order" means this document, also known as a Consent Order.
7. "Q-Market" means Q-Markets, Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
8. "Facility or Site" means the Q-Market gas dispensing station number 480 located at 7101 Brook Road, Richmond, Virginia.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Regulations" means the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution 9 VAC 5-10-10 *et seq.*
11. "Stage II" means certified vapor recovery systems at gasoline dispensing facilities required by 9 VAC 5-40-5220.F.1.
12. "USTs" mean underground storage tanks.

SECTION C: Findings of Fact and Conclusions of Law

1. Q-Market owns/operates a gas dispensing convenience store, located at 7101 Brook Road, Richmond, Virginia 23227 which is subject to the requirements of 9 VAC 5-40-5220.F.
2. On September 18, 2006, the Department inspected the Facility and noted several violations of Stage II regulations. A Request for Corrective Action ("RCA") was issued on September 18, 2006, requesting that Q-Market submit to the Department passing test results; inspection and maintenance records; and a training certificate. The RCA also requested the repair of the pressure vacuum vent; removal of liquid and debris from spill containment buckets; replacement of the whip hose at fueling points #4, #7 and #8; replacement of the vapor hose at fueling points # 5, #7, and #10; and, replacement of the nozzle boots on fueling point #7 and #8. The RCA required compliance by October 18, 2006.
3. On November 3, 2006, the Department re-inspected the Facility to determine compliance with the RCA issued on September 18, 2007. Department staff observed that the hardware at the fueling points had been replaced, however Q-Market failed to conduct testing, submit a copy of a training certificate, commence monthly inspection certifications, or maintain an inspection and maintenance log.
4. On November 7, 2006, the Department issued a warning letter to Q-Markets citing them for the violations discovered during the November 3, 2007 inspection.

The operator of the facility contacted the Department and requested 60 days to come into compliance. The extension was granted by the Department, however the required documents were not submitted.

5. On April 3, 2007, a Notice of Violation ("NOV") was issued to Q-Market citing them for failing to submit passing test results; inspection and maintenance records; and a training certificate to the Department.
6. On May 22, 2007, a meeting was held to discuss the issues cited in the above NOV.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316(C), orders Q-Market, and Q-Market agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Q-Market, and Q-Market voluntarily agrees, to pay a civil charge of \$950 in settlement of the violation cited in this Order in accordance with the following schedule:

<u>Due Date</u>	<u>Amount</u>
February 15, 2009	\$475
July 15, 2009	\$475

Payment shall be made by check payable to the "Treasurer of Virginia", and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1105
Richmond, Virginia 23218

Payment shall include the Federal Tax Identification Number for the Facility.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Q-Market, for good cause shown by Q-Market, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves the alleged violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Q-Market by DEQ on April 3, 2007. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not

limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Purgo admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Q-Market consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Q-Market acknowledges it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Q-Market to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Q-Market shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Q-Market shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Q-Market shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

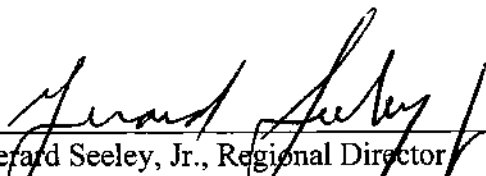
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Q-Market.
- 11. This Order shall continue in effect until:
 - a. Q-Market petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Q-Market.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Q-Market from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. By its signature below, Q-Market voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of November 17, 2008.



Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

Q-Market voluntarily agrees to the issuance of this Order.

By: A Thomas
FORMER PRESIDENT

Date: 11/13/08

Commonwealth of Virginia

City/County of Henrico

The foregoing document was signed and acknowledged before me this 13 day of

November, 2008, by A Thomas, who ~~is~~ WAS

President of Q-Market, Inc., on behalf of the Corporation.

7039385
[Signature]
Notary Public

My commission expires: January 31 2010

Appendix A

Q-Market shall:

By December 15, 2008, comply with 9 VAC 5-40-5220.E. and F., or it shall cease dispensing gasoline until such time as compliance is achieved. Q-Market shall demonstrate compliance by:

- a. On or before December 15, 2008, submit documentation of a passing wet blockage test to DEQ and keep a copy on site.
- b. On or before December 15, 2008, submit a copy of a training certificate and keep a copy on site.
- c. On or before December 15, 2008, commence monthly inspection certifications and maintain a daily inspection log and a maintenance log.